INFORMATION BULLETIN

May 18, 2012 **2012-3**

MEASURES RELATING TO THE STOCK SAVINGS PLAN II AND TO THE LODGING TAX

This information bulletin provides a detailed description of the application details of qualification for the stock savings plan II of shares issued for a capital pool company.

It also makes public the application of the $3 lodging tax in the Outaouais, Centre-du-Québec and Abitibi-Témiscamingue tourism regions as of July 1, 2012, further to requests to that effect made by the tourism associations of these regions.

For information regarding the matters dealt with in this information bulletin, contact the secteur du droit fiscal et de la fiscalité at 418 691-2236.

The French and English versions of this bulletin are available on the ministère des Finances website at : www.finances.gouv.qc.ca

1. CHANGE TO THE STOCK SAVINGS PLAN II

The stock savings plan II, hereafter called SSP II, was introduced in the April 21, 2005 budget speech.[1] The plan is designed to foster the growth of Québec companies by increasing their permanent capitalization through a public offering.

Briefly, an individual who resides in Québec on December 31 of a year can deduct, in calculating his taxable income, for the year, the adjusted cost for him of a qualifying share[2] or a qualifying security[3] that he acquired during the year and that he included in his SSP II no later than January 31 of the following year. However, the deduction on this account may not exceed 10% of the individual's total income for the year.

Accordingly, on the one hand, the plan reduces the financial risk of investors and, on the other, channels capital to a segment of the market that generally receives less attention from equity investors.

Briefly, a qualified issuing corporation for the purposes of the SSP II is corporation that makes a public share issue and that, on the date of the receipt of the final prospectus granted by the Autorité des marchés financiers (AMF) or, as the case may be, on the date of the exemption from filing a prospectus, satisfies the following conditions:

- it is a Canadian corporation whose assets are less than $200 million;
- its central management is in Québec and more than one-half of the wages paid to its employees in its last taxation year ended before that date were paid to employees of an establishment situated in Québec;
- throughout the preceding 12 months, it carried on a business and had not fewer than five full-time employees who were not insiders nor persons related to such insiders;
- a maximum of 50% of the value of its property consists of assets, other than qualified investments.[4]

---

1 MINISTÈRE DES FINANCES DU QUÉBEC, *2005-2006 Budget – Additional Information on the Budgetary Measures*, April 21, 2005, Section 1, p. 62. At that time, the SSP II was called the SME Growth Stock Plan (Accro PME).

2 The adjusted cost of a qualifying share is equal to 100% of the acquisition cost of such share determined without including borrowing, brokerage, custody or other similar costs attached thereto.

3 The adjusted cost of a qualifying security, for an individual, means the cost of such security, for the individual, determined without including borrowing, brokerage, custody or other similar expenses, multiplied by the percentage stipulated in the final prospectus or the one determined within 60 days following the end of the year in which the issue took place. Briefly, this percentage depends on the relative size of the adjusted costs of the shares qualifying for the plan acquired by the qualified mutual fund compared with the proceeds of the issue of the mutual fund's securities.

4 *Taxation Act* (R.S.Q., c. I-3), section 965.90.

According to the SSP II rules, a qualified mutual fund[5] is a vehicle that enables individual investors to diversify their SSP II portfolio. A qualified mutual fund that issues qualifying securities as part of a public issue must stipulate in the prospectus that these securities may be covered by the SSP II and that it undertakes, in particular, to acquire no later than December 31 of the year, with the expected proceeds for the year of the public security issue, shares qualifying for the SSP II.[6]

Moreover, it was announced, in the April 21, 2005 budget speech, that the SSP II rules would be adapted to reflect the TSX Venture Exchange Capital Pool Company Policy (CPC).[7]

Essentially, a CPC is a newly created company whose sole asset is its cash and has not begun commercial activities, which is authorized to make a public share issue for a limited amount and list its shares on the TSX Venture Exchange.[8] The activities of a CPC consist, for a limited period, in identifying a business opportunity that must be authorized and will enable it to carry out an eligible transaction. Briefly, an eligible transaction is a transaction whereby a CPC acquires substantial assets, other than cash, following a purchase, consolidation, merger or arrangement with another company, or following another type of transaction.

According to the existing SSP II rules, a CPC that makes a public share issue may not be designated by the Minister of Revenue as a qualified issuing corporation unless the distribution of the shares is made in accordance with a receipt of the AMF. In addition, on the date of the receipt for the final prospectus, the CPC must, to be so designated, satisfy certain conditions that essentially reproduce the conditions that apply to qualified issuing corporations, as well as a condition on the use that must be made of the major portion of the proceeds of the issue.[9]

Where a qualified mutual fund acquires as first purchaser qualifying shares issued by a qualified issuing corporation, other than a CPC, the share distribution may have been made under an exemption from filing a prospectus.[10] However, the shares of a CPC acquired as first purchaser by a qualified mutual fund as part of a distribution concomitantly with an eligible transaction carried out by the CPC would not be eligible for the SSP II if such distribution were made under an exemption from filing a prospectus rather than in accordance with a receipt of the AMF.

---

5 *Ibid.*, section 965.117.

6 *Ibid.*, section 965.119.

7 MINISTÈRE DES FINANCES DU QUÉBEC, *2005-2006 Budget – Additional Information*, op. cit., p. 72.

8 TSX Venture Exchange, Policy 2.4 – Capital Pool Companies (June 14, 2010).

9 *Taxation Act*, section 965.95.

10 More specifically, the exemption from filing a prospectus referred to in paragraph *c* of the definition of the expression "public share issue" stipulated in section 965.55 of the *Taxation Act*.

Since qualified mutual funds contribute significantly to the capitalization of small businesses under the SSP II and the documents required by the TSX Venture Exchange from a CPC that carries out an eligible transaction essentially contain the information contained in a prospectus required by the AMF, the SSP II will be eased so that a public share issue by a CPC to a qualified mutual fund in accordance with an exemption from filing a prospectus,[11] concomitantly with an eligible transaction carried out by the CPC shall henceforth be eligible for the purposes of this plan. In this respect, a CPC will be designated by the Minister as a qualified issuing corporation if, on the date of the exemption from filing a prospectus, the following conditions are satisfied:

- it is a Canadian corporation;
- its assets are less than $200 million;
- the major portion of the proceeds of the issue of qualifying shares to a qualified mutual fund made in accordance with the exemption from filing a prospectus will be used to carry out a concomitant eligible transaction whose objective is, directly or indirectly, the continuation of an existing business that is carried on by a corporation that, on the date of the exemption from filing a prospectus, meets the requirements of the SSP II regarding qualified issuing corporations;[12]
- the Minister of Revenue is of the opinion that the public share issue satisfies the objectives of the SSP II.

Lastly, the Minister of Revenue may for the purposes of this change require any document or information he considers necessary to reach an advance ruling in relation to the satisfaction of the plan's objectives.

This change to the SSP II will apply regarding a public share issue made after the day of publication of this information bulletin.

11 *See note above.*

12 Requirements are those mentioned in paragraphs *a* to *e* of section 965.90 of the *Taxation Act*.

2. APPLICATION OF THE $3 LODGING TAX IN THE OUTAOUAIS, CENTRE-DU-QUÉBEC AND ABITIBI-TÉMISCAMINGUE TOURIST REGIONS

The government has set up a tourist partnership fund to strengthen and sustain tourist promotion and development in Québec. The fund is financed in part by a lodging tax applicable to each accommodation unit rented in a sleeping-accommodation establishment located in a tourist region of Québec that makes such a request to the government through its regional tourist association (RTA).

The revenues generated by this tax, after deducting the costs of its administration, are remitted to the participating regions and the amounts thus remitted are used in accordance with the terms and conditions agreed to in a memorandum of understanding between the Ministère du Tourisme and the RTAs of these participating regions.

RTAs that want the lodging tax to apply in their territory can choose between a specific tax of $2 or $3 per overnight stay or an *ad valorem* tax of 3% of the price of each overnight stay.

The specific tax on lodging of $2 per overnight stay has applied in the Outaouais, Centre-du-Québec and Abitibi-Témiscamingue tourist regions since October 1, 2001, July 1, 2003 and July 1, 2004 respectively. Following requests submitted by the RTAs of these regions, the specific tax of $3 per overnight stay will replace the $2 tax per overnight stay as of July 1, 2012.

Accordingly, the operator of a sleeping-accommodation establishment located in any of these three regions will have to collect or pre-collect the specific tax on lodging of $3, as the case may be, for any accommodation unit rented in its establishment that he invoices after June 30, 2012 for occupation after that date.

However, the operator of a sleeping-accommodation establishment will not have to pre-collect the $3 tax for accommodation units billed to a travel intermediary, where the price of such units was set under an agreement reached before July 1, 2012 between the operator and the intermediary, and their occupation by tourist customers takes place between June 30, 2012 and April 1, 2013. In these circumstances, the operator will continue to be required to pre-collect the existing $2 tax.